

Revised Draft – 04-03-06 rev.

Memorandum

TO: Honorable Mayor and City Council
Jan Dolan, City Manager

FROM: The Housing Board

THROUGH: Judy Register, Citizen and Neighborhood Resources General Manager

CC: Ed Gawf, Assistant City Manager

DATE: **TBD**

SUBJECT: Conversion of Apartments to Condominiums

EXECUTIVE SUMMARY

The Housing Board is requesting that the City Council consider the Board's recommendations regarding the impact of the increase in the number of conversions of rental multifamily units to condominium ownership and to direct the Board in regard to actions to take on this issue.

While there ordinarily would be a list of comprehensive recommendations, the Board is severely limited as to the scope of those recommendations in order to conform to ARS 33-1205.

Arizona Revised Statute 33-1205 provides, generally, that no municipality shall impose "...any requirement on a condominium which it would not impose on a physically identical development under a different form of ownership"

Consequently, the recommendations outlined below are divided into two groups:

1. Those recommendations that appear to meet Statute 33-1205 (see short term action); and,
2. Those recommendations that would require a change at the State legislative level (see long term action).

Over the last few years, there has been a growing trend in multifamily rental units being converted to and sold as condominiums. Eighteen condominium conversion applications were received by the City of Scottsdale in 2005 representing approximately 3426 housing units. In the first ten weeks of 2006, an additional nine properties filed applications for conversions with a total of 2724 more units being affected. This means

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that in 2006, the number of units affected by conversions is already at 80% of the total number of units converted during the entire calendar year of 2005. At this pace, it is anticipated that there will be an adverse impact on the availability of affordable rental housing in the city. In order to maintain the high quality of housing stock in Scottsdale it is important to establish standards for projects that undergo the condominium conversion process.

RECOMMENDATIONS

After careful consideration and evaluation of the research presented in this document, the Housing Board makes the following recommendations for modifications to the condominium conversion process and regulatory requirements. The Housing Board has concluded that these recommendations are necessary to maintain certain reasonable standards for all housing stock within the City of Scottsdale. The City Council is asked to consider the adoption of these recommendations as a City Code revision, resolution or appropriate administrative action. Due to the need to consider short and long term changes, the recommendations are outlined in those categories:

Short Term (12 months):

1. **Condominium Conversion Database**

Create and maintain a database of relevant information relating to condominium conversion projects to provide a better understanding of the nature and effects of conversions on the housing stock in Scottsdale.

2. **Multi-Family Real Estate Transfer Form**

Establish public notice and disclosure requirements for residents, potential purchasers and citizens regarding property owners contemplating conversion from an apartment complex to a condominium to include issues relating to: use of aluminum wiring, use of ceiling sprinkler systems in units, perimeter firewall ratings, age of roof, calls for police service to complex, etc.). The Housing Board is happy to work with staff in the development of this document.

3. **Zoning and Building Permit Compliance**

Research the history of zoning and building permit non-compliance issues related to multi-family complexes that may need to be addressed in revising those codes.

4. **Conversion Permit Fee Increase**

Increase the conversion permit fee to defray the cost of administration of a review program more in line with the cost of a building permit for new construction.

Long Term (24 months):

5. **Modification of State Statute (ARS33-1205)**

Working with other municipalities, the Housing Board recommends that the city consider advocating for changes to ARS33-1205. The proposed changes would create regulations ensuring that owners of multi-family properties (either apartment projects or condominium conversions) meet minimum health and safety requirements. Additionally, it is recommended that the statute require that the residents of those units sign an acknowledgement that they have been notified of the conditions of the property, including those properties that do not meet current building standards.

6. **Condominium Conversion Application Process**

Strengthen the application, review and approval process through the Planning and Development Services Department by: (1) requiring that a condominium plat be provided in order to exercise more control over all aspects of condominium conversions; (2) establishing stricter criteria for staff review including building health and safety, site engineering, planning & zoning issues, etc.; (3) ensuring that adequate reserves have been created and that homeowners associations documents are in place which provide for ongoing management and maintenance of the project; and, (4) requiring reasonable and proper notification to existing residents allowing enough time for them to find suitable housing and relocate without an undo financial hardship.

7. **Health, Safety and Fire Code Standards for Older Properties**

Enforce reasonable health, safety and fire code standards for individual units, common facilities and open spaces by establishing a policy for the reasonable application of current building codes rules and regulations while taking into consideration the age of the project being converted.

8. **Develop Standards for Evaluating Site Conditions**

Establish standards for evaluating existing site conditions to ensure proper drainage and flood control, adequate ingress and egress to the site, sufficient parking for residents and guests, architectural compatibility

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within the neighborhood and other engineering and design issues.

BACKGROUND

At its June 14, 2005 meeting, the Board created a sub-committee to research the topic of condominium conversions and their impact on housing choice in Scottsdale. The research included talking to city staff in Planning and Development Services, the City Attorney's office and others to learn what is currently being done related to requests for condominium conversions and what might be done to ensure a variety of housing choices for anyone choosing to live in Scottsdale.

The subcommittee concluded that the Housing Board should forward recommendations to the Scottsdale City Council addressing certain aspects of the condominium conversion process and requirements. The purpose of the recommendations is to ensure the safety of those living and working in Scottsdale, maintain the high standards for housing stock within the City of Scottsdale, and ensure a mix of housing types to meet the needs of citizens. During the analysis of the issue, the Board was informed about the provisions of ARS33-1205 and how it would impact any local restrictions that might be considered for owners of multi-family complexes undergoing conversion to condominiums.

RESEARCH

The requirements for condominium conversions vary from city to city, both in the Valley and around the country. The requirements range from seemingly nothing other than filing an application and paying a modest fee, to more stringent requirements such as adherence to certain health and safety standards, requiring minimum notice periods, disclosure statements, and providing compensation to individuals/families that may be subject to a hardship as a result of the forced relocation.

The City of Scottsdale falls into the "minimal requirement" end of the spectrum where the only requirements are the filing of an application and payment of a modest fee by the owner/sub-divider. . The city has advertised its new "streamlined" application/staff approval process for condominium conversions on its web site at <http://www.scottsdaleaz.gov/BldgResources/DevProcess/condoconversion.asp>. The web site provides the following information:

Conversions of existing sites may not require a Development Review Board approval, but will require a staff approval process to determine conformance with current requirements such as parking, drainage, access, etc.

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There is also a statement that “*Condominium plats do not require City Council approval.*”

Research indicates that the changes in building codes relating to health and safety issues may not be applied to an apartment project that is being considered for conversion to condominiums today. These health and safety issues may include, but are not limited to:

- Age of the apartments – depending on the year of construction, building codes may be significantly different in 2006 from units originally constructed as condominiums 20 or 30 years ago, including standards that apply to fire walls, insulation, electrical, and other health and safety standards.
- The fire safety standards for apartment units have differed from the standards for a condominium over time.

At the present time, there is no comprehensive database maintained by the City of Scottsdale to track information regarding completed condominium conversions. Without this information source, there is no way to analyze the true impact on the quality of Scottsdale housing, the possible displacement of citizens of Scottsdale, economic impact or information of a historical significance regarding condominium conversions. This database must be developed and maintained by city staff and should be made available to all interested parties. Efforts should commence immediately to create such a database and to populate it with information that is currently available in the City of Scottsdale files and data available from researching external sources as well. The database could include information such as:

- Number of units to be converted and year of original construction
- Time period to complete conversion
- Date and number of people/families displaced who did not exercise right to purchase and description of compensation package, if any, offered to compensate for move
- Identification of sub-divider and indication whether not-for-profit or for profit entity
- Description of handicapped units available for sale, if any
- Following conversion, the percentage of converted units owned by investors who offer them for lease
- Change in aggregate property taxes for the “subdivision” one year after conversion is complete
- Census tract information and, if a low or moderate-income census tract, the number of low and moderate income, and handicapped individuals/families displaced
- Compensation offered by the sub-divider to displaced residents
- Amount of city/county/state/federal funds used in the conversion including tax abatements
- Number of building code violations since the original construction
- Description of improvements to the project since the original construction

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- Summary of differences relating to building code, health and safety standards, compared to current building codes

Some cities require a property/building inspection be completed and passed prior to approval of the conversion. In at least one instance, the inspection process has six steps: (i) submittal of the inspection request form and fee; (ii) a site visit by City building, plumbing and electrical inspectors, (iii) issuance of a written inspection report; (iv) receipt of a building permit for corrective work; (v) completion of all required work; and, (vi) city inspection of the completed work and issuance of a completion certificate.

Inspection reports typically cover three types of problems: (i) work which was completed without required permits (including everything from kitchen renovation to decks to in-law units); (ii) conditions which present safety hazards (like poor fire ingress or dangerous electrical wiring); and, (iii) energy and water conservation violations.

CONCLUSION

The Housing Board has identified the importance of understanding and analyzing the issue of condo conversions. The city must be prepared in the future for more requests from apartment owners who want to convert their rentals. In order for the condominium units produced to meet acceptable quality standards and be an asset to Scottsdale's future housing needs, it is recommended that a condominium conversion policy be implemented.

The Housing Board awaits direction from the City Council on any additional work the Housing Board may do to advance these recommendations.

Addendum 1

Arizona Revised Statute 33-1205 – Applicability of local ordinances, rules and building codes

- A. A zoning, subdivision or building code or other real estate use law, ordinance or rule shall not prohibit a **condominium** form of ownership or impose any requirement on a **condominium** which it would not impose on a physically identical development under a different form of ownership.
- B. Except as provided in subsection A, this chapter does not invalidate or modify any provision of any zoning, subdivision or building code or other real estate use law, ordinance or rule.

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Addendum 2

**Metro Phoenix – Condo Conversion Activity Map (Transwestern
Commercial Services – 2005)**